

Chief Judge Ricardo S. Martinez

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

DENYS IARMAK,

Defendant.

NO. CR19-257 RSM

STIPULATION REGARDING USE
OF VIDEOCONFERENCING
DURING CHANGE OF PLEA
HEARING; ORDER

The parties hereby stipulate and agree as follows:

1. Defendant DENYS IARMAK is charged by Indictment with various federal felony offenses. Dkt. #5. Following his arrest and extradition to the Western District of Washington, defendant was ordered detained. Dkt. #26. Trial is currently set for February 14, 2022.

2. Defendant is prepared to enter a guilty plea per written plea agreement.

3. The parties now hereby stipulate and agree that the change of plea hearing should occur via video conference.

4. On March 27, 2020, Congress passed the Coronavirus Aid, Relief and Economic Security Act ("CARES Act"). The CARES Act authorized the Judicial Conference of the United States and the Chief District Judges of the various Districts to

1 authorize felony change of plea hearings and sentencing hearings by video or telephonic
 2 conference when (1) such hearings “cannot be conducted in person without seriously
 3 jeopardizing public health and safety;” and (2) “the district judge in a particular case finds
 4 for specific reasons that the plea or sentencing in that case cannot be further delayed without
 5 serious harm to the interests of justice.” *Id.*, Pug. L. 116-23 15002(b)(2).

6 5. On March 29, 2020, the Judicial Conference of the United States made the
 7 findings required by the CARES Act, concluding that conditions due to the COVID-19
 8 pandemic have materially affected and will affect the functioning of federal courts generally.

9 6. Western Washington was one of the first areas impacted by the pandemic.
 10 Even before the CARES Act, on March 17, 2020, Chief United States District Judge
 11 Ricardo S. Martinez issued General Order 02-20 closing the Seattle and Tacoma
 12 Courthouses to the public except as provided therein, and continued all civil and criminal
 13 hearings and trial dates until no earlier than June 1, 2020.

14 7. In General Order 04-20, Chief Judge Martinez made the findings required by
 15 the CARES Act as referenced above, and authorized the use of video conferencing or
 16 telephone conferencing for felony pleas and felony sentencings, provided that the district
 17 judge in a particular case finds for specific reasons that the plea or sentencing in that case
 18 cannot be further delayed without serious harm to the interest of justice. Such hearings can
 19 only be conducted if the defendant in question consents. The findings made in General
 20 Order 04-20 have been extended, most recently in General Order 13-21, filed on September
 21 23, 2021, which extended the authorization to conduct video conference or telephonic
 22 conferences for certain public hearings for an additional 90 days.

23 8. In addition to the pandemic, this Court is experiencing more general issues
 24 with resources. The Western District of Washington has an authorized compliment of seven
 25 full-time district court judges. However, due to retirements and judges taking senior status,
 26 the District currently only has three full-time judges. This scarcity of judicial resources is of
 27 course worsened by the pandemic’s impact on the Court’s ability to conduct in-person
 28 hearings, which has inevitably resulted in an ever-growing backlog of hearings that will

otherwise not be addressed until the pandemic is sufficiently resolved to allow in-person hearings. That growing backlog will result in delay in scheduling jury trials, evidentiary hearings, change of plea hearings and sentencings that threatens the interests of justice in reasonably prompt resolution of criminal matters. Accordingly, where possible, handling matters via video or teleconference will help alleviate that backlog and avoid those adverse impacts.

9. Further, lead defense counsel resides in New York, and would be required to travel by plane in order to physically appear in the Western District of Washington. Due to the ongoing and foreseeable health risk of COVID-19, defendant also seeks to avoid such travel, if possible.

10. For these reasons, defendant hereby requests and consents to conducting the change of plea hearings in this matter via video conference.

11. Counsel for defendant certifies that he has discussed defendant's right to enter his guilty plea at an in-person proceeding, that defendant understands that right, and that defendant has knowingly and intentionally consented to proceed with the hearing via video conference.

12. Based on the foregoing, the parties therefore stipulate and agree that the change of plea hearing cannot be further delayed without serious harm to the interests of justice and should be conducted via videoconference.

So stipulated this 8th day of November, 2021.

NICHOLAS W. BROWN
United States Attorney

s/ Steven Masada

s/ Francis Franze-Nakamura

STEVEN MASADA
FRANCIS FRANZE-NAKAMURA
Assistant United States Attorneys

s/Charles Kaser

CHARLES W. KASER, *pro hac vice*
Attorney for Denys Iarmak

/s/ Michael Nance, WSBA #13933

Michael Nance, Esq.
Attorney for Denys Iarmak
Of Counsel to Sharova Law Firm

ORDER

1. The Court adopts the findings above.
2. Further, the Court specifically finds that:
 - a. The change of plea hearings in this case cannot be further delayed without serious harm to the interests of justice; and
 - b. The defendant has waived defendant's physical presence at the hearing and consents to remote hearing by video conference

Therefore, based on the findings above and under the Court's authority under Section 15002(b) of the CARES Act and the General Orders issued by this court, the Court
ORDERS AS FOLLOWS:

The change of plea hearing in this matter will be conducted by video conference by a U.S. Magistrate Judge at a time to be coordinated by the parties with magistrate court staff.

Dated this 8 day of November, 2021.



HON. RICARDO S. MARTINEZ
U.S. District Court Judge